

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
AND THE BOARD OF PRIVATE ALTERNATIVE ADOLESCENT
RESIDENTIAL OR OUTDOOR PROGRAMS
STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF AMENDMENT
24.101.413 renewal, 24.181.401)	AND ADOPTION
registration fee schedule, and adoption of)	
NEW RULE I fee abatement, NEW RULE)	
II licensing fee schedule, and NEW RULE)	
III renewals)	

TO: All Concerned Persons

1. On March 13, 2008, the Department of Labor and Industry (department) and the Board of Private Alternative Adolescent Residential or Outdoor Programs (board) published MAR Notice No. 24-181-2 regarding the amendment and adoption of the above-stated rules, at page 451 of the 2008 Montana Administrative Register, issue no. 5.

2. On April 7, 2008, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the April 15, 2008, deadline.

3. The department and board have thoroughly considered the comments and testimony received. A summary of the comments received and the department's and board's responses are as follows:

COMMENT 1: Three commenters opposed the proposed fee schedule stating that the fees are punitive, extreme, will place a hardship on current programs and parents of youth in need, and will deter development of new programs. In addition, it was suggested that the board reconsider the revenue needed to fund a fiscally responsible budget and revise the fees to a level providing the needed oversight at a reasonable cost.

RESPONSE 1: The board is statutorily required to set and maintain fees that are commensurate with the program costs needed to adequately fund the licensure and regulation of private alternative adolescent residential or outdoor programs. The proposed fees resulted from an evaluation of current and projected program costs and revenue. The board and department will continuously monitor program expenses and will make adjustments based on the budget authorized by the Legislature and the number of licensees to ensure fiscal responsibility. The board understands the concerns about the fees, but notes that the fee increases are necessary for the board to comply with the statutory obligations.

COMMENT 2: One commenter suggested the board defer action and move the process back to the Legislature for clarification of interpretation and intent of the 2007 legislation.

RESPONSE 2: The Legislature enacted legislation requiring the board to license and regulate private alternative adolescent residential or outdoor programs. The board is adjusting the fees and adopting additional rules at this time to follow the directive of the Legislature and comply with the statutory mandate.

COMMENT 3: A commenter suggested the board allow for fee reduction as more programs are registered or licensed and annually refund all overages.

RESPONSE 3: The board and department will continuously monitor program expenses and make adjustments based on the budget authorized by the Legislature and the number of licensees to ensure fiscal responsibility. As a state agency, the board may not maintain a cash balance greater than twice the board's appropriation or spending authority, as established by the Legislature. Further, the board is adopting New Rule I to facilitate the prompt elimination of excess cash accumulation as appropriate and when needed through fee abatement.

4. The department has amended ARM 24.101.413 exactly as proposed.

5. The board has amended ARM 24.181.401 exactly as proposed.

6. The board has adopted NEW RULE I (24.181.403), NEW RULE II (24.181.402), and NEW RULE III (24.181.2101), exactly as proposed.

BOARD OF PRIVATE ALTERNATIVE
ADOLESCENT RESIDENTIAL OR
OUTDOOR PROGRAMS
MICHELLE MANNING, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2008